

REMARKS/ARGUMENTS

It is believed that this application has been amended in a manner that places it in condition for allowance at the time of the next Official Action.

Claims 1-39 have been canceled. New claims 40-55 have been added. Claims 40-55 are directed to an isolated, substantially purified nucleotide sequence, comprising SEQ ID NO:3 and homologous sequences thereof. The homologous sequence exhibits at least 70% homology. Moreover, the nucleotide sequence is in a screening system and is a marker for compounds exhibiting insulin regulating properties. Support for new claims 40-55 may be found in original claims 1-6 and in the specification at pages 9 and 10.

In the outstanding Official Action, claims 1-6 were rejected under 35 USC §112, first paragraph, as allegedly containing subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time that the application was filed, had possession of the claimed invention. It is believed that the present amendment obviates this rejection.

In imposing the rejection, the outstanding Official Action alleges that no common elements or attributes of the sequences of the claimed invention are disclosed. The Official

Action also further contends that the disclosure does not support sequences which have 70% or greater homology because a biological function was not disclosed.

As noted above, claims 1-6 have been canceled. New claims 40-55 have been added. Claims 40-55 are directed to an isolated, substantially purified nucleotide sequence, comprising SEQ ID NO:3 and homologous sequences thereof. The homologous sequences exhibit 70% homology. However, the claims have been amended so that the nucleotide sequences are found in a screening system and are a marker for compounds exhibiting insulin regulating properties.

Moreover, the Examiner's attention is respectfully directed to claims 41, 42, 45, 46, 53 and 54 wherein the sequence itself is further specified.

Thus, upon reviewing the present disclosure, it is believed that the specification sufficiently describes the claimed invention in such full, clear, concise and exact terms so that one of ordinary skill in the art would recognize that Applicant was in possession of the claimed invention at the time that the application was filed.

In the outstanding Official Action, claims 1-6 were rejected under 35 USC §102(a) as allegedly being anticipated by BIRREN et al. It is believed that this rejection has been obviated by the present amendment.

It is believed that BIRREN et al. fail to disclose or suggest each and every recitation of the claimed invention. While the BIRREN et al. publication discloses a sequence homologous to SEQ ID NO:3, Applicant believes that BIRREN et al. fail to disclose a sequence and a screening system or that the sequence is a marker for compounds exhibiting insulin regulating properties. Thus, it is believed that BIRREN et al. fail to anticipate the claimed invention.

In view of the present amendment and the foregoing remarks, therefore, it is believed that this application is in condition for allowance, with claims 40-55, as presented. Allowance and passage to issue on that basis are accordingly respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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